

ESTTA Tracking number: **ESTTA162821**

Filing date: **09/14/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91175635
Party	Plaintiff Guess?, Inc.
Correspondence Address	Gary J. Nelson Christie, Parker & Hale, LLP PO Box 7068 Pasadena, CA 91109-7068 UNITED STATES pto@cph.com
Submission	Motion for Summary Judgment
Filer's Name	Gary J. Nelson
Filer's e-mail	pto@cph.com
Signature	/Gary J. Nelson/
Date	09/14/2007
Attachments	MSJ.pdf ( 8 pages )(239744 bytes ) GJN.pdf ( 13 pages )(331813 bytes ) SEL.pdf ( 3 pages )(52148 bytes ) TLL.pdf ( 5 pages )(74821 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

Guess?, Inc.

Opposer,

v.

New World A-Ju Zipper Co., Ltd.

Applicant.

Opposition No. 91175635

Application No: 78/891,392

Trademark: YES

**OPPOSER'S MOTION FOR SUMMARY  
JUDGMENT**

**MOTION FOR SUMMARY JUDGMENT**

Pursuant to Rule 56(c) of the Federal Rules of Civil Procedure and TBMP Rule 528, Opposer Guess?, Inc. ("Guess?") moves for summary judgment in favor of Guess? and against Applicant New World A-Ju Zipper Co., Ltd. ("Applicant"). Guess? further moves for a suspension of all proceedings in this matter that are not germane to its summary judgment motion.

This motion is based on the Points and Authorities put forth below, as well as the complete records and files of this proceeding, and any other oral or documentary evidence that may be relevant.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. Introduction and Statement of Facts**

Applicant filed intent to use United States Trademark Application Serial No. 78/891,392 on May 24, 2006 for YES for shoe ornaments not of precious metal, shoe eyelets, eyes for clothing, eyelets for clothing, hooks for clothing, leather and textile shoe fasteners, shoe hooks, shoe laces, shoe buckles, buttons, hook and pile fastening tapes, slide fasteners, zippers, and press buttons in International Class 26 (the "Application" or "Applicant's Application"). (Declaration of Gary J. Nelson ("Nelson Decl.") ¶ 2.) The Application was published for opposition on January 23, 2007. (Nelson Decl. ¶ 3.)

Guess? filed a timely Notice of Opposition on February 12, 2007 and subsequently served discovery requests in the form of interrogatories, requests for production, and requests for admission on May 21, 2007. (Nelson Decl. ¶¶ 4-5 and Ex. A.) Guess? served these discovery requests via U.S. Mail. (Nelson Decl. ¶ 5.) Applicant let the June 25, 2007 due date for responding to these requests pass without serving any responses. (Nelson Decl. ¶ 6.)

On Friday, August 24, 2007, in response to a telephone inquiry initiated by Guess?'s counsel, counsel for Applicant left a message with Guess?'s counsel indicating that he was unsure as to his client's intentions with respect to discovery. (Declaration of Tammy Lightman ("Lightman Decl.") ¶ 2.) No indication was made as to whether Applicant would respond to the discovery requests. (Lightman Decl. ¶ 3.) On August 31, 2007, counsel for Guess? contacted Applicant's counsel via telephone to discuss the upcoming discovery period deadline. (Declaration of Steven E. Lauridsen ("Lauridsen Decl.") ¶ 2.) During this discussion, counsel for Applicant indicated that he had not yet determined whether Applicant intended to respond to Guess?'s discovery requests. (Lauridsen Decl. ¶ 3.)

**II. The Board May Enter Summary Judgment Where Applicant Fails to Respond to Requests for Admission.**

The Board recognizes that summary judgment is a "salutary method of disposition," and as a result "does not hesitate to dispose of cases on summary judgment where appropriate." TBMP § 528.01 (citations omitted). Summary judgment is proper where the moving party establishes that there are no triable issues of material fact and that it is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). "When the moving party's motion is supported by evidence sufficient to indicate that there is no genuine issue of material fact, and that the moving party is entitled to judgment, the burden shifts to the nonmoving party to demonstrate the existence of specific genuinely-disputed facts that must be resolved at trial. The nonmoving party may not rest on the mere allegations of its pleadings and assertions of counsel, but must designate specific portions of the record or produce additional evidence showing the existence of a genuine issue of material fact for trial." *Fram Trak Industries, Inc. v. Wiretracks LLC*, 77 U.S.P.Q.2d 2000 (T.T.A.B. 2006). If, as is the case here, a party on which requests for admission have been served fails to file a timely response thereto, the requests will stand admitted. TBMP § 411.02.

**III. Legal Standard for Likelihood of Confusion in Light of Summary Judgment**

Registration of a mark must be refused where a likelihood of confusion exists because of the concurrent use of the marks of an applicant and a prior user on their respective goods. 15 U.S.C. § 1052; *In re E. I. Du Pont de Nemours & Co.*, 476 F.2d 1357, 1361 (C.C.P.A. 1973). The courts generally examine thirteen factors when determining whether likelihood of confusion exists between two marks, including similarity of appearance, sound, connotation, and commercial impression; similarity of the goods and services; similarity of channels of trade; whether consumers of the goods make careful purchasing decisions; fame of the prior mark; and

the extent of potential confusion. *In re E. I. Du Pont de Nemours & Co.*, 476 F.2d at 1361. Likelihood of confusion is a fact specific inquiry, and any one of the above factors may play a dominant role, depending on the particular circumstances of the case. *Id.* at 1361-62.

#### **IV. Undisputed Facts**

The following facts are undisputed<sup>1</sup> in this proceeding:

1. The goods identified in Applicant's Application are identical to at least some of the goods distributed in association with the mark identified by Guess in its Notice of Opposition ("Guess?'s Mark"). (Nelson Decl. Ex. A, Request No. 32.)
2. The goods identified in Applicant's Application are closely related to at least some of the goods distributed in association with Guess?'s Mark. (Nelson Decl. Ex. A, Request No. 33.)
3. The subject mark of Applicant's Application ("Applicant's Mark") is similar to Guess?'s Mark in visual appearance, pronunciation, commercial impression, and connotation. (Nelson Decl. Ex. A, Request No. 34.)
4. The marketing scheme and channels of trade associated with the goods identified in Applicant's Application are related to the marketing scheme and channels of trade within which Guess? sells and markets its goods. (Nelson Decl. Ex. A, Request No. 36.)
5. Applicant's Mark is likely to cause confusion with Guess?'s Mark when used in association with the parties' respective goods. (Nelson Decl. Ex. A, Request No. 41.)

---

<sup>1</sup> These undisputed facts originate from Guess?'s request for admission propounded on Applicant. Because Applicant failed to respond to these requests by the June 25, 2007 deadline, they are deemed admitted. TBMP § 411.02.

6. The average consumer confronted with the specimen Applicant provided to the United States Patent and Trademark Office may believe that the goods depicted in the specimen originate from Guess? or from a source affiliated with, sponsored by, or otherwise connected to Guess?. (Nelson Decl. Ex. A, Request No. 42.)
7. Registration and use of Applicant's Mark is likely to cause confusion, mistake, and/or deception among the relevant consumer as to the respective rights of Applicant and Guess?, and as to the source, sponsorship, or affiliation of products associated with Applicant and Guess?. (Nelson Decl. Ex. A, Request No. 43.)

**V. Applicant's Admissions Relate Directly to the *duPont* Factors and Therefore Conclusively Establish Likelihood of Confusion**

Applicant has admitted that Applicant's Mark satisfies the majority of the factors the Board examines in determining whether a likelihood of confusion exists between two marks. Moreover, Applicant has also admitted that the its use of the contested mark is likely to cause confusion, mistake, and deception among the relevant consuming public. The courts generally examine thirteen factors when determining whether likelihood of confusion exists between two marks, including similarity of appearance, sound, connotation, and commercial impression; similarity of the goods and services; similarity of channels of trade; whether consumers of the goods make careful purchasing decisions; fame of the prior mark; and the extent of potential confusion. *In re E. I. Du Pont de Nemours & Co.*, 476 F.2d at 1361. Any of these factors may be dispositive. *Id.* Here, however, each of the factors is satisfied in Guess?'s favor because Applicant has admitted as much.

On May 21, 2007, Guess? served its first set of requests for admissions. (Nelson Decl. ¶ 5.) These requests specifically addressed each of the factors listed above. (Nelson Decl. Ex. A.)

Applicant failed to respond to these requests by the June 25, 2007 deadline and, as of the filing of this motion, still has failed to respond. (Nelson Decl. ¶ 6.) Because the deadline has lapsed, the requests all stand admitted. TBMP § 411.02. As such, Applicant has admitted that Applicant sells its goods in the same channels of trade as Guess?; that Applicant's Mark is similar to Guess?'s Mark in visual appearance, pronunciation, commercial impression, and connotation; and that at least some of Applicant's goods are identical or closely related to Guess?'s. (Nelson Decl. Ex. A, Request Nos. 32, 33, 34, 36.) Moreover, Applicant is deemed to have specifically admitted the likelihood of confusion between the Applicant's Mark and Guess?'s Mark. (Nelson Decl. Ex. A, Request Nos. 41, 42, 43.)

Because Applicant has admitted that there is a likelihood of confusion between Applicant's Mark and Guess?'s Mark, Applicant has essentially admitted to the allegations contained in Guess?'s Notice of Opposition. As such, Guess? requests that the Board rule in favor of Guess? and refuse registration for United States Trademark Application Serial No. 78/891,392.

**VI. The Board Should Suspend All Further Proceedings Not German to This Motion**

When a party files a summary judgment motion, the Board should suspend the case "with respect to all matters not germane to the motion . . ." 37 C.F.R. § 2.127(d). The suspension is not automatic, but requires an order from the Board. TBMP § 528.03. Therefore, Guess? requests that the Board immediately issue an order suspending all proceedings, discovery, and filings pending a resolution of this motion for summary judgment.

**VII. Conclusion**

Because Applicant failed to respond to Guess?'s requests for admission, and in doing so, admitted that a likelihood of confusion exists between Applicant's Mark and Guess?'s Mark, Guess? requests that the Board deny Applicant's Mark registration.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

Date

9/12/07

By

Gary J. Nelson

Gary J. Nelson

Attorneys for Opposer

P.O. Box 7068

Pasadena, California 91109-7068

626/795-9900

GJN/sel

SEL PAS752732.1-\*09/12/07 10:25 AM



**CERTIFICATE OF MAILING AND SERVICE**

I certify that on September 14, 2007, the foregoing **MOTION FOR SUMMARY JUDGMENT** is being sent electronically to:

Trademark Trial and Appeal Board  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

It is further certified that on September 14, 2007, the foregoing **MOTION FOR SUMMARY JUDGMENT** is being served by mailing a copy thereof by first-class mail addressed to:

Gary M. Nath  
H. David Starr  
THE NATH LAW GROUP  
112 S. West Street  
Alexandria, Virginia 22314-2825

By \_\_\_\_\_  
Tammy Lightman  
Christie, Parker & Hale, LLP  
P.O. Box 7068  
Pasadena, CA 91109-7068

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

Guess?, Inc.

Opposer,

v.

New World A-Ju Zipper Co., Ltd.

Applicant.

Opposition No. 91175635

Application No: 78/891,392

Trademark: YES

DECLARATION OF GARY J. NELSON IN  
SUPPORT OF OPPOSER'S MOTION FOR  
SUMMARY JUDGMENT

I, Gary J. Nelson, declare:

1. I am a partner of Christie, Parker & Hale, LLP ("CPH"), attorneys of record for Opposer Guess?, Inc. ("Guess?"). I make this declaration of my personal knowledge, and if called as a witness, could testify competently to each of the following facts.

2. New World A-Ju Zipper Co., Ltd. ("Applicant") filed intent to use United States Trademark Application Serial No. 78/891,392 on May 24, 2006 for YES for shoe ornaments not of precious metal, shoe eyelets, eyes for clothing, eyelets for clothing, hooks for clothing, leather and textile shoe fasteners, shoe hooks, shoe laces, shoe buckles, buttons, hook and pile fastening tapes, slide fasteners, zippers, and press buttons in International Class 26 (the "Application").

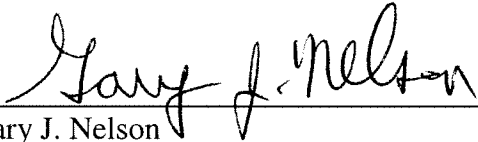
3. The Application was published for opposition on January 23, 2007.

4. Guess? filed a timely Notice of Opposition on February 12, 2007

5. Guess? subsequently served discovery requests in the form of interrogatories, requests for production, and requests for admission on May 21, 2007. Guess? served these requests via U.S. Mail. A copy of Guess?'s requests for admission is attached as Exhibit A.

6. Applicant let the June 25, 2007 due date for responding to these requests pass without serving any responses. As of today's date, Applicant has still not responded to these discovery requests.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration is executed on September 12, 2007, in Pasadena, California.

  
\_\_\_\_\_  
Gary J. Nelson

GJN/sel

SEL PAS753337.1-\* -09/12/07 10:26 AM

# **EXHIBIT A**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK AND APPEAL BOARD**

GUESS?, INC.

Opposer,

v.

NEW WORLD A-JU ZIPPER CO., LTD.

Applicant.

Opposition No. 91175635

Mark: YES  
Serial No. 78/891,392  
Filed: May 24, 2006

**OPPOSER, GUESS?, INC.'S FIRST SET OF REQUESTS FOR ADMISSIONS FROM  
APPLICANT, NEW WORLD A-JU ZIPPER CO., LTD.**

Opposer Guess?, Inc. requests that Applicant New World A-Ju Zipper Co., Ltd. admit the truth of each of the following matters, in accordance with Trademark Rules 2.119(c) and 2.120 and Rule 36 of the Federal Rules of Civil Procedure, within thirty-five days after the service of this request.

**DEFINITIONS AND INSTRUCTIONS**

- A. "Zipper," "Applicant," "you," or "your" shall mean New World A-Ju Zipper Co., Ltd. and any director, agent, employee, individual, division, subsidiary, or entity acting for or on behalf of New World A-Ju Zipper Co., Ltd..
- B. "Guess?" or "Opposer" shall mean Guess?, Inc. and any entity acting for or on behalf of Guess?, Inc.
- C. The term "person" and "persons" mean both natural persons and legal entities (i.e. corporations or other business entities).
- D. References to any person, entity, or party herein includes his, her, or its agents, attorneys, employees, officers, directors, or others acting on behalf of said person, entity, or party.
- E. References to the terms "and" and "or" shall be interpreted in their broadest sense and shall include both the disjunctive and the conjunctive.

- F. "Applicant's Mark" and "Zipper's Mark" shall mean the mark "YES" including the subject mark of U.S. Trademark Application Serial No. 78/891,392.
- G. "Opposer's Mark" and "Guess?'s Mark" shall mean the mark "YES" including the subject mark of U.S. Trademark Registration No. 1,734,931.
- H. "Applicant's Application" shall mean the Application being opposed, i.e. U.S. Trademark Application Serial No. 78/891,392.

**REQUESTS FOR ADMISSION**

**REQUEST FOR ADMISSION NO. 1:**

Admit that Applicant owns the U.S. Trademark Application Serial No. 78/891,392.

**REQUEST FOR ADMISSION NO. 2:**

Admit that U.S. Trademark Application Serial No. 78/891,392 claims the word mark YES.

**REQUEST FOR ADMISSION NO. 3:**

Admit that Guess? began using Guess?'s Mark as a trademark before Zipper began using Zipper's Mark.

**REQUEST FOR ADMISSION NO. 4:**

Admit that Guess?'s rights in Guess?'s Mark precede any rights Zipper may have in Zipper's Mark.

**REQUEST FOR ADMISSION NO. 5:**

Admit that Guess?'s Mark is strong.

**REQUEST FOR ADMISSION NO. 6:**

Admit that the relevant consumer associates Guess?'s men's sportswear with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 7:**

Admit that the relevant consumer associates Guess?'s women's sportswear with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 8:**

Admit that the relevant consumer associates Guess?'s children's sportswear with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 9:**

Admit that the relevant consumer associates Guess?'s tops with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 10:**

Admit that the relevant consumer associates Guess?'s shirts with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 11:**

Admit that the relevant consumer associates Guess?'s T-shirts with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 12:**

Admit that the relevant consumer associates Guess?'s pants with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 13:**

Admit that the relevant consumer associates Guess?'s trousers with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 14:**

Admit that the relevant consumer associates Guess?'s jackets with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 15:**

Admit that the relevant consumer associates Guess?'s sweatshirts with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 16:**

Admit that the relevant consumer associates Guess?'s shorts with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 17:**

Admit that the relevant consumer associates Guess?'s leggings with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 18:**

Admit that the relevant consumer associates Guess?'s jeans with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 19:**

Admit that the relevant consumer associates Guess?'s blazers with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 20:**

Admit that the relevant consumer associates Guess?'s vests with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 21:**

Admit that the relevant consumer associates Guess?'s boleros with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 22:**

Admit that the relevant consumer associates Guess?'s rompers with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 23:**

Admit that the relevant consumer associates Guess?'s jumpsuits with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 24:**

Admit that the relevant consumer associates Guess?'s jumpers with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 25:**

Admit that the relevant consumer associates Guess?'s dresses with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 26:**

Admit that the relevant consumer associates Guess?'s skirt suits with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 27:**

Admit that the relevant consumer associates Guess?'s pant suits with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 28:**

Admit that the relevant consumer associates Guess?'s sweaters with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 29:**

Admit that the relevant consumer associates Guess?'s tennis shoes with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 30:**

Admit that the relevant consumer associates Guess?'s belts with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 31:**

Admit that the relevant consumer associates Guess?'s headbands with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 32:**

Admit the goods identified in Zipper's Application are identical to at least some of the goods distributed in association with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 33:**

Admit that the goods identified in Zipper's Application are closely related to at least some



of the goods distributed in association with Guess?'s Mark.

**REQUEST FOR ADMISSION NO. 34:**

Admit that Zipper's Mark is similar to Guess?'s Mark in visual appearance, pronunciation, commercial impression, and connotation.

**REQUEST FOR ADMISSION NO. 35:**

Admit that the advertising material depicting Zipper's Mark is available at little or no expense to consumers.

**REQUEST FOR ADMISSION NO. 36:**

Admit that the marketing scheme and channels of trade associated with the goods identified in Zipper's Application are related to the marketing scheme and channels of trade within which Guess? sells and markets its goods.

**REQUEST FOR ADMISSION NO. 37:**

Admit that the goods identified in Zipper's Application are not expensive goods purchased with a great deal of care.

**REQUEST FOR ADMISSION NO. 38:**

Admit that product line expansions are common in the clothing industry.

**REQUEST FOR ADMISSION NO. 39:**

Admit that you have seen or known about Guess? or Guess?'s products before you started using Zipper's Mark.

**REQUEST FOR ADMISSION NO. 40:**

Admit that you adopted your YES Mark from Guess?'s YES Mark.

**REQUEST FOR ADMISSION NO. 41:**

Admit that Zipper's Mark is likely to cause confusion with Guess?'s Mark when used in association with the parties' respective goods.

**REQUEST FOR ADMISSION NO. 42:**

Admit that an average consumer confronted with the specimen Zipper provided to the United States Patent and Trademark Office may believe that the goods depicted in the specimen

originate from Guess? or from a source affiliated with, sponsored by, approved by, or otherwise connected to Guess?.

**REQUEST FOR ADMISSION NO. 43:**

Admit that registration and use of Zipper's Mark is likely to cause confusion, mistake, and/or deception among the relevant consumer as to the respective rights of Zipper and Guess?, and as to the source, sponsorship, or affiliation of products associated with Zipper and Guess?.

**REQUEST FOR ADMISSION NO. 44:**

Admit that you have never used Zipper's Mark on shoe ornaments not of precious metal.

**REQUEST FOR ADMISSION NO. 45:**

Admit that you have never used Zipper's Mark on shoe eyelets.

**REQUEST FOR ADMISSION NO. 46:**

Admit that you have never used Zipper's Mark on eyes for clothing.

**REQUEST FOR ADMISSION NO. 47:**

Admit that you have never used Zipper's Mark on eyelets for clothing.

**REQUEST FOR ADMISSION NO. 48:**

Admit that you have never used Zipper's Mark on hooks for clothing.

**REQUEST FOR ADMISSION NO. 49:**

Admit that you have never used Zipper's Mark on leather and textile shoe fasteners.

**REQUEST FOR ADMISSION NO. 50:**

Admit that you have never used Zipper's Mark on shoe hooks.

**REQUEST FOR ADMISSION NO. 51:**

Admit that you have never used Zipper's Mark on shoe laces.

**REQUEST FOR ADMISSION NO. 52:**

Admit that you have never used Zipper's Mark on shoe buckles.

**REQUEST FOR ADMISSION NO. 53:**

Admit that you have never used Zipper's Mark on buttons.

**REQUEST FOR ADMISSION NO. 54:**

Admit that you have never used Zipper's Mark on hook and pile fastening tapes.

**REQUEST FOR ADMISSION NO. 55:**

Admit that you have never used Zipper's Mark on slide fasteners.

**REQUEST FOR ADMISSION NO. 56:**

Admit that you have never used Zipper's Mark on zippers.

**REQUEST FOR ADMISSION NO. 57:**

Admit that you have never used Zipper's Mark on press buttons.

**REQUEST FOR ADMISSION NO. 58:**

Admit that you are not currently using Zipper's Mark on shoe ornaments not of precious metal.

**REQUEST FOR ADMISSION NO. 59:**

Admit that you are not currently using Zipper's Mark on shoe eyelets.

**REQUEST FOR ADMISSION NO. 60:**

Admit that you are not currently using Zipper's Mark on eyes for clothing.

**REQUEST FOR ADMISSION NO. 61:**

Admit that you are not currently using Zipper's Mark on eyelets for clothing.

**REQUEST FOR ADMISSION NO. 62:**

Admit that you are not currently using Zipper's Mark on hooks for clothing.

**REQUEST FOR ADMISSION NO. 63:**

Admit that you are not currently using Zipper's Mark on leather and textile shoe fasteners.

**REQUEST FOR ADMISSION NO. 64:**

Admit that you are not currently using Zipper's Mark on shoe hooks.

**REQUEST FOR ADMISSION NO. 65:**

Admit that you are not currently using Zipper's Mark on shoe laces.

**REQUEST FOR ADMISSION NO. 66:**

Admit that you are not currently using Zipper's Mark on shoe buckles.

**REQUEST FOR ADMISSION NO. 67:**

Admit that you are not currently using Zipper's Mark on buttons.

**REQUEST FOR ADMISSION NO. 68:**

Admit that you are not currently using Zipper's Mark on hook and pile fastening tapes.

**REQUEST FOR ADMISSION NO. 69:**

Admit that you are not currently using Zipper's Mark on slide fasteners.

**REQUEST FOR ADMISSION NO. 70:**

Admit that you are not currently using Zipper's Mark on zippers.

**REQUEST FOR ADMISSION NO. 71:**

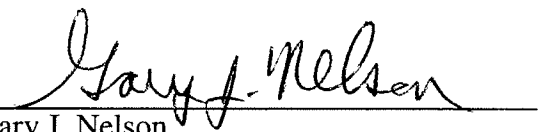
Admit that you are not currently using Zipper's Mark on press buttons.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

DATED: May 18, 2007

By



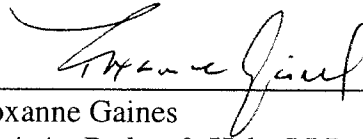
Gary J. Nelson  
Attorneys for Opposer  
Post Office Box 7068  
Pasadena, California 91109-7068  
Phn: (626) 795-9900

**CERTIFICATE OF MAILING AND SERVICE**

I certify that on May 21, 2007, the foregoing **OPPOSER, GUESS?, INC.'S FIRST SET OF REQUESTS FOR ADMISSIONS TO APPLICANT, NEW WORLD A-JU ZIPPER CO., LTD.** is being served by mailing a copy thereof by first-class mail addressed to:

Gary M. Nath  
H. David Starr  
THE NATH LAW GROUP  
112 S. West Street  
Alexandria, Virginia 22314

By



Roxanne Gaines  
Christie, Parker & Hale, LLP  
P.O. Box 7068  
Pasadena, CA 91109-7068

**CERTIFICATE OF MAILING AND SERVICE**

I certify that on September 14, 2007, the foregoing **DECLARATION OF GARY J. NELSON IN SUPPORT OF OPPOSER'S MOTION FOR SUMMARY JUDGMENT** is being sent electronically to:

Trademark Trial and Appeal Board  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

It is further certified that on September 14, 2007, the foregoing **DECLARATION OF GARY J. NELSON IN SUPPORT OF OPPOSER'S MOTION FOR SUMMARY JUDGMENT** is being served by mailing a copy thereof by first-class mail addressed to:

Gary M. Nath  
H. David Starr  
THE NATH LAW GROUP  
112 S. West Street  
Alexandria, Virginia 22314-2825

By



Tammy Lightman  
Christie, Parker & Hale, LLP  
P.O. Box 7068  
Pasadena, CA 91109-7068

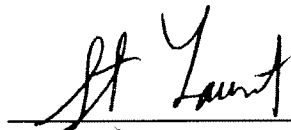
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

Guess?, Inc.	Opposition No.	91175635
Opposer,	Application No:	78/891,392
v.	Trademark:	YES
New World A-Ju Zipper Co., Ltd.	DECLARATION OF STEVEN E. LAURIDSEN IN SUPPORT OF OPPOSER'S MOTION FOR SUMMARY JUDGMENT	
Applicant.		

I, Steven E. Lauridsen, declare:

1. I am an attorney at Christie, Parker & Hale, LLP ("CPH"), attorneys of record for Opposer Guess?, Inc. ("Guess?"). I make this declaration of my personal knowledge, and if called as a witness, could testify competently to each of the following facts.
2. On August 31, 2007, I contacted New World A-Ju Zipper Co., Ltd.'s ("Applicant") counsel via telephone to discuss the upcoming discovery period deadline.
3. During this discussion, counsel for Applicant indicated that he had not yet determined whether Applicant intended to respond to Guess?'s discovery requests.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration is executed on September 12, 2007, in Pasadena, California.

A handwritten signature in black ink, appearing to read "St. Lauridsen", is written over a horizontal line.

Steven E. Lauridsen

GJN/sel

SEL PAS754622.1-\* -09/11/07 10:51 AM



**CERTIFICATE OF MAILING AND SERVICE**

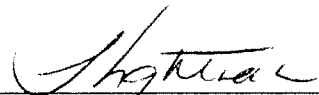
I certify that on September 14, 2007, the foregoing **DECLARATION OF STEVEN E. LAURIDSEN IN SUPPORT OF OPPOSER'S MOTION FOR SUMMARY JUDGMENT** is being sent electronically to:

Trademark Trial and Appeal Board  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

It is further certified that on September 14, 2007, the foregoing **DECLARATION OF STEVEN E. LAURIDSEN IN SUPPORT OF OPPOSER'S MOTION FOR SUMMARY JUDGMENT** is being served by mailing a copy thereof by first-class mail addressed to:

Gary M. Nath  
H. David Starr  
THE NATH LAW GROUP  
112 S. West Street  
Alexandria, Virginia 22314-2825

By



Tammy Lightman  
Christie, Parker & Hale, LLP  
P.O. Box 7068  
Pasadena, CA 91109-7068

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

Guess?, Inc.	Opposition No.	91175635
Opposer,	Application No:	78/891,392
v.	Trademark:	YES
New World A-Ju Zipper Co., Ltd.	<b>DECLARATION OF TAMMY LIGHTMAN IN SUPPORT OF OPPOSER'S MOTION FOR SUMMARY JUDGMENT</b>	
Applicant.		

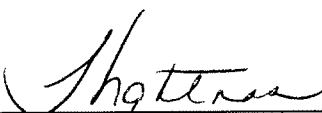
I, Tammy Lightman, declare:

1. I am an employee of Christie, Parker & Hale, LLP ("CPH"), attorneys of record for Opposer Guess?, Inc. ("Guess?"). I make this declaration of my personal knowledge, and if called as a witness, could testify competently to each of the following facts.

2. On Friday, August 24, 2007, in response to a telephone inquiry initiated by Gary Nelson, counsel for New World A-Ju Zipper Co., Ltd. ("Applicant") left a message on Gary Nelson's voicemail indicating that he was unsure as to his client's intentions with respect to discovery. I transcribed this voice message. A copy of this transcription is attached as Exhibit A.

3. During the course of the message, no indication was made as to whether Applicant would respond to the discovery requests that Guess? has served.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration is executed on September 14, 2007, in Pasadena, California.

  
\_\_\_\_\_  
Tammy Lightman

GJN/sel

SEL PAS754613.1-\* -09/12/07 10:18 AM

# **EXHIBIT A**

# memorandum

---

**Date:** Friday, August 24, 2007

**To:** File

**From:** Gary J. Nelson

**File:** G440:110.2\*77

**Subject:** Phone Message

---

This is David Starr returning your call, of earlier today, concerning the YES opposition. Please give me a call at 703-548-6284.

I'm not sure as to my client's present intention with respect to discovery. I would like to go back to them and see what they are, exactly, and they are not very familiar with US practice. I would like to ask for their consent, as well, before agreeing to a further extension of time in the matter. Since I will be going back to them, I also wanted to make a quick inquiry as to whether there is any possibility of settling this matter, and if your client has any thoughts of entertaining that possibility. I look forward to hearing from you at your convenience.

GJN/tll

SEL PAS752773.1-\* -09/11/07 10:50 AM

**CERTIFICATE OF MAILING AND SERVICE**

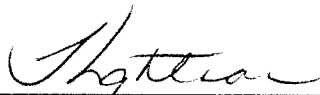
I certify that on September 14, 2007, the foregoing **DECLARATION OF TAMMY LIGHTMAN IN SUPPORT OF OPPOSER'S MOTION FOR SUMMARY JUDGMENT** is being sent electronically to:

Trademark Trial and Appeal Board  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

It is further certified that on September 14, 2007, the foregoing **DECLARATION OF TAMMY LIGHTMAN IN SUPPORT OF OPPOSER'S MOTION FOR SUMMARY JUDGMENT** is being served by mailing a copy thereof by first-class mail addressed to:

Gary M. Nath  
H. David Starr  
THE NATH LAW GROUP  
112 S. West Street  
Alexandria, Virginia 22314-2825

By



Tammy Lightman  
Christie, Parker & Hale, LLP  
P.O. Box 7068  
Pasadena, CA 91109-7068